

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ADJUSTMENT OF RATES OF
GTE SOUTH INCORPORATED

)
)

CASE NO. 10117

O R D E R

On September 1, 1988, the Commission entered an Order granting GTE South Incorporated ("GTE South") an increase in intrastate revenues of \$7,947,185. On August 3, 1989, the Commission granted GTE South an additional increase in intrastate revenues of \$614,564 pursuant to GTE South's request for rehearing filed September 21, 1988.

On August 23, 1989, GTE South filed a request styled "Petition for Rehearing (Limited Reconsideration) on Commission's Order on Rehearing." In its petition, GTE South requested that the Commission reconsider two aspects of its August 3, 1989 Order on Rehearing. The first aspect to reconsider is the requirement that GTE South file an interLATA cost-of-service study to establish a new interLATA access revenue requirement and to adjust access rates. This pertains to ordering paragraph 8 of the August 3, 1989 Order on Rehearing and the related narrative on pages 14 through 19. The second issue is the lack of authority contained in the Order on Rehearing to permit GTE South to recover the "unbilled revenues" related to the period from the effective date for the rates prescribed in the August 1, 1988 Order until the

effective date of the August 3, 1989 Order on Rehearing. By the term "unbilled revenues," GTE is referring to the \$614,564 found on rehearing to be the fair, just, and reasonable additional revenue requirement.

On August 18, 1989, prior to filing its petition for limited reconsideration, GTE South filed a proposed tariff which will also be addressed in this Order. The cover letter of GTE South's tariff states that:

The surcharges set forth in this tariff addition provide for the recovery, over a twelve-month period, of unbilled revenue during the period from August 1, 1988 to August 3, 1989, for which a revenue requirement was recognized in the Commission's Order on Rehearing.

On August 31, 1989, the Attorney General of the Commonwealth of Kentucky, by and through his Utility and Rate Intervention Division ("Attorney General"), filed a response to GTE South's petition. On September 12, 1989, GTE South filed a reply to the Attorney General's response. Turning to a discussion of the merits, the Commission will now consider each issue.

RECONSIDERATION OF INTERLATA COST-OF-SERVICE STUDY

In its Order on Rehearing, the Commission required GTE South to file an interLATA cost-of-service study within sixty (60) days of the date of the Order and stated that if the new interLATA revenue requirement differed from the interLATA revenues authorized in this case then local service and interLATA toll rates may be affected. In its petition for limited reconsideration, GTE South enumerated multiple reasons why it should be relieved from the mandate to file a cost-of-service study. GTE

South alleges that an interLATA cost-of-service study and any adjustments made pursuant to such study would: 1) violate generally accepted accounting principles and sound regulatory practices, resulting in a mismatch of expenses and investments to revenues; 2) constitute inappropriate evidence by substituting a new level of interLATA access revenues; 3) extend the analysis of this case beyond a reasonable period; 4) improperly use two different test periods; 5) discriminate against a single local exchange company; 6) produce a result not contemplated by the Commission; and 7) be untimely in view of pending Administrative Case No. 323.¹

The Attorney General in his response contends that none of the arguments raised by GTE South have merit and that they are all based on the unfounded assumption that the ordered cost-of-service study should cover a period different from the original test period of this rate case. Also, the Attorney General states that GTE South in filing Case No. 10171² did not believe, as it now states, that the principles of Case No. 8838³ dictate alteration of revenue requirements only through a generic proceeding. Thus, GTE South's arguments contain no basis for rehearing this issue.

¹ Case No. 323, An Inquiry into InterLATA Toll Competition, An Appropriate Compensation Scheme for Completion of InterLATA Calls by Interexchange Carriers, and WATS Jurisdictionality.

² Case No. 10171, Tariff Application of General Telephone Company of the South, Inc.

³ Case No. 8838, An Investigation of Toll and Access Charge Pricing and Toll Settlement Agreements for Telephone Utilities Pursuant to Changes to be Effective January 1, 1984.

The Commission has carefully considered all arguments propounded by GTE South and the Attorney General and finds that GTE South should file an interLATA cost-of-service study in conformity with the Order on Rehearing. The purpose of this study is to allocate properly the costs between GTE South's intraLATA service offerings and interLATA access service offerings.

The Commission contemplates that GTE South should still obtain the total revenues awarded in this rate case but may, as a result of the review of its interLATA cost-of-service study, obtain additional revenues from access and a lesser amount of revenues from intraLATA service. The Commission in this case has, as in the past, used a 1984 level of interLATA access revenue requirements because of a lack of current cost-of-service study information. The Commission is of the opinion that because there will be no overall effect on GTE South's revenue requirements as determined in this proceeding, there will be no discrimination against GTE South. Additionally, the Commission intends to examine interLATA access revenue requirements in the future rate proceedings of all local exchange companies.

GTE alleges that a review of interLATA access revenue requirements is premature in light of pending Administrative Case No. 323. However, this is not the case. The purpose of reviewing interLATA access revenue requirements is to consider establishing a new revenue requirement level and such action does not preclude the consideration of all options in Administrative Case No. 323.

Finally, GTE South has asserted that an interLATA cost-of-service study would constitute new evidence, would extend this current rate case, would utilize two test periods, and may produce results contrary to the Commission's intention. In the near future, the Commission will, by separate Order, initiate a new case for the purpose of reviewing GTE South's interLATA access revenue requirements. By establishing this separate case, the Commission is clarifying its intent originally expressed in the Order on Rehearing that the interLATA cost-of-service study review be addressed in a new proceeding. Thus, GTE South's concerns about the continuation of this rate case are unwarranted. As will be further delineated in the Order establishing this new proceeding, GTE shall file a preliminary cost-of-service study. The Commission will review the preliminary analysis and contemplates meeting with GTE South, on an informal basis at that time, to further discuss the scope and purpose of that investigation. Therefore, GTE South's concern that an interLATA access cost-of-service study would, at this time, produce a result contrary to the Commission's intention, is without merit given the Commission's clarification that it will initially require only the filing of a new study. Upon review of that filing, the Commission will determine the appropriate course of action.

RECONSIDERATION TO SURCHARGE FOR UNBILLED REVENUES

In its petition for limited reconsideration, GTE South contends that it should be permitted to recover the revenue requirement established in the Order on Rehearing for the time elapsed between the Order dated September 1, 1988 and the Order

on Rehearing dated August 3, 1989. GTE South contends that the Commission should reconsider its Order because no provision was made to recover the revenue requirement which had existed since the September 1, 1988 Order but which had not been recognized by the Commission until its Order on Rehearing. In further support of its position, GTE South cites Kentucky Power Company v. Energy Regulatory Commission, 623 S.W.2d 904 (Ky., 1981). GTE South contends that that case permits a utility to recoup revenue losses occurring between the date of a Commission Order and the date of a Court's judgment holding the rates contained in the Commission Order to be inadequate.

The Attorney General contends that GTE South's proposed surcharge for unbilled revenues violates a most basic premise of administrative law, the proscription against retroactive rate-making. The Attorney General asserts that the Kentucky Power Company case is distinguishable from this matter. There, the rates designed by the Commission failed to provide the authorized revenues. Here, there is no allegation by GTE South that the rates set by the Commission in the September 1, 1988 Order or in the Order on Rehearing failed to provide the level of revenues authorized at that time.

The Commission, after considering GTE South's petition, the Attorney General's response, and GTE South's reply, and being otherwise sufficiently advised, is of the opinion that GTE South's request to collect by surcharge the unbilled revenues should be denied and the proposed tariff containing the rates necessary to

produce the surcharge should be rejected. The revenue requirements which the Commission found reasonable on rehearing were not set and determined until the issuance of the Order on Rehearing. KRS 278.390 states, in part, that: "Every order entered by the commission shall continue in force until the expiration of the time, if any, named by the commission in the order, or until revoked or modified by the commission, unless the order is suspended, or vacated in whole or in part, by order or decree of a court of competent jurisdiction." Thus, the Order dated September 1, 1988 remained in full force and effect until superseded by the Order on Rehearing.

IT IS THEREFORE ORDERED that:

1. GTE South's petition for reconsideration of the requirement to file an interLATA cost-of-service study is denied. The study shall be filed in compliance with the Order initiating the review of GTE South's interLATA access revenue requirements, to be issued in the near future. After review of this preliminary analysis, the Commission will determine the further necessary scope of investigation.

2. GTE South's request to collect by surcharge the unbilled revenues is denied.

3. The proposed tariff containing the rates necessary to produce the surcharge is rejected.

Done at Frankfort, Kentucky, this 12th day of September, 1989.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Executive Director